

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 504*

House Bill No. 868

by deleting the amendatory and directory language in SECTION 2 in its entirety and by substituting instead the following:

SECTION 2. Tennessee Code Annotated, Section 8-5-110, is amended by deleting subsection (a) thereof in its entirety and by substituting instead the following:

(a) The state treasurer is designated as the custodian of all negotiable instruments deposited as collateral with the state or any department thereof, and shall be exclusively responsible for their safekeeping.

by deleting the amendatory and directory language in SECTION 6 in its entirety and by substituting instead the following:

SECTION 6. Tennessee Code Annotated, Section 9-4-519(a), is amended by deleting it in its entirety and by substituting instead the following:

(a) Public depositors shall comply with the following requirements:

(1) A public depositor shall ensure that the name of the public depositor is on the account or certificate provided to the public depositor by the qualified public depository in a manner sufficient to disclose the identity of the public depositor; and

(2) A public depositor who sustained a loss occasioned by a default or insolvency of a qualified public depository that was not satisfied pursuant to § 9-4-512 shall notify the treasurer of that fact within three (3) business days after receiving actual notice of the default from publications made pursuant to § 9-4-513(a).

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by adding the following new Sections and by redesignating the subsequent Sections accordingly:

SECTION 14. Tennessee Code Annotated, Section 9-4-103(9), is amended by deleting it in its entirety and by substituting instead the following:

(9) An irrevocable letter of credit issued by the federal home loan bank; provided, that:

(A) The federal home loan bank is rated in the highest category by at least two

(2) nationally recognized securities rating services; and

(B) The state treasurer may require the state depository to promptly pledge securities in lieu of the letter of credit if the state treasurer believes it necessary to protect public funds; or

SECTION 15. Tennessee Code Annotated, Section 9-4-107, is amended by deleting it in its entirety and by substituting instead the following:

(a) "State depository" means:

(1) (A) any savings and loan association, or savings bank (collectively referred to as savings institutions), or any bank chartered by the state of Tennessee;

(B) any national bank, or federal savings institution that has its main office located in this state; or

(C) any national or state bank, or any federal or state savings institution that has its main office located outside this state and that maintains one (1) or

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more branches in this state which are authorized to accept federally insured deposits; and

(2) that has been designated by the state treasurer, the governor and the commissioner of finance and administration as a state depository. Notwithstanding any other provision of the law to the contrary, an automated teller machine or such other similar type receptacle or device shall not be considered a branch for purposes of this section. A bank or savings institution located outside this state desiring to be designated as state depository must agree that this chapter shall govern in determining its rights and responsibilities as a state depository, and must agree to be subject to the jurisdiction of the courts of this state, or of the courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter.

(b) Notwithstanding any provision of § 12-4-108 to the contrary, the public official described in § 12-4-108(b) shall have the power to enter into a trust agreement with any savings institution or bank described in subsection (a) of this section for the safekeeping, custodial care and servicing of securities substituted for retained funds pursuant to § 12-4-108.

(c) It is the duty of the commissioner of financial institutions to make inquiry, on a timely basis, of the primary regulatory authority respecting the condition and safety of each out-of-state state chartered bank and of each out-of-state state chartered savings institution as a state depository and to advise the state treasurer and the commissioner

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of finance and administration of the results. Such inquiry shall be made on at least an annual basis.

SECTION 16. Tennessee Code Annotated, Section 9-4-502(17), is amended by deleting it in its entirety and by substituting instead the following:

(17) "Public depository" means:

(A) (i) Any savings and loan association, or savings bank (collectively referred to as savings institutions), or any bank chartered by the state of Tennessee;

(ii) Any national bank, or federal savings institution that has its main office located in this state; or

(iii) Any national or state bank, or any federal or state savings institution that has its main office located outside this state and that maintains one (1) or more branches in this state which are authorized to accept federally insured deposits; and

(B) which has been appropriately designated to hold public deposits by a public depositor. Notwithstanding any other provision of the law to the contrary, an automated teller machine or such other similar type receptacle or device shall not be considered a branch for purposes of this subsection. A bank or savings institution located outside this state desiring to be designated as qualified public depository must agree that this chapter shall govern in determining its rights and responsibilities as a qualified public depository, and must agree to be subject to the

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jurisdiction of the courts of this state, or of the courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter.

SECTION 17. Tennessee Code Annotated, Section 9-4-512, is amended by deleting it in its entirety and by substituting instead the following:

9-4-512. When the treasurer determines that a default or insolvency has occurred, the treasurer shall provide notice as required in § 9-4-513 and implement the following procedures:

(1) The treasurer, in cooperation with the commissioner of financial institutions, the appropriate federal regulator, or the conservator or receiver of the qualified public depository in default, shall ascertain the amount of funds of each public depositor on deposit at such depository, the amount of deposit insurance applicable to such deposits and the amount of such deposits which will not be covered through the sale of securities pledged by the defaulting depository;

(2) Upon ascertaining the amount of such deposits which will not be covered through any applicable deposit insurance or through the sale of securities pledged by the defaulting depository, the treasurer shall as promptly as possible provide coverage of the remaining loss by assessment against the other qualified public depositories. Such assessment shall be determined by multiplying the total amount of the loss to all public depositors by a percentage which represents the average share of public fund deposits held by that depository during the previous twelve (12) months divided by the average total public deposits held by all depositories during

90644736

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the same twelve-month period, excluding the public deposits of the defaulting depository;

(3) Each qualified public depository shall pay its assessment to the treasurer within five (5) business days after it receives notice of the assessment. If a depository fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that depository; and

(4) Public depositories receiving payment under the provisions of this section shall assign to the treasurer any interest they may have in funds that may subsequently be made available to the qualified public depository in default. If the qualified public depository in default or its receiver provides the funds to the treasurer, the treasurer shall distribute the funds, plus all accrued interest which has accumulated from the investment of the funds, if any, to the depositories which paid assessments on the same pro rata basis as the assessments were paid.

SECTION 18. Tennessee Code Annotated, Section 9-4-513, is amended by deleting it in its entirety and by substituting instead the following:

(a) Within thirty (30) days after the date of default or insolvency of a qualified public depository, the treasurer shall publish or cause to be published notice of such default or insolvency once a week for two (2) consecutive weeks in a newspaper of general circulation in each grand division of the state and in the Tennessee administrative register. The notice shall direct all public depositories who sustained a loss occasioned by the default or insolvency that was not satisfied pursuant to § 9-4-512 to

90644736

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file their claims with the treasurer within ninety (90) days after the date of the first publication of the notice.

(b) No claim made pursuant to subsection (a) shall be binding on the pool or the qualified public depositories unless presented within ninety (90) days after the date of the first publication of the notice. Further, no such claim shall be binding on the pool or the qualified public depositories if the loss was occasioned by the public depositor's failure to comply with the requirements of § 9-4-519(a)(1). This subsection does not affect any proceeding to:

(1) Enforce any real property mortgage, chattel mortgage, security interest, or other lien on property of a qualified public depository that is in default or insolvency; or

(2) Establish liability of a qualified public depository that is in default or insolvency to the limits of any federal or other casualty insurance protection.

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